

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 08-cr-10-JD

Alan G. Garceau

ORDER OF DETENTION PENDING TRIAL

In accordance with Section 3142(f) of the Bail Reform Act, [18 U.S.C. §§ 3141 et seq.](#), a hearing was conducted on February 15, 2008, for the purpose of determining whether to detain defendant, Alan G. Garceau, who has been indicted on assaulting, resisting, and impeding a federal law enforcement officer in violation of [18 U.S.C. § 111\(a\)\(1\)](#), and possession of a firearm by a convicted felon, in violation of [18 U.S.C. § 922\(g\)](#).

Under [18 U.S.C. § 3142\(b\)](#), a court, in making a determination regarding detention, must evaluate the risk of the defendant's flight, the risk to the safety of any other person, and the risk to the safety of the community. In circumstances when detention is not mandated by the court, the court is nonetheless empowered to impose conditions on release. [18 U.S.C. § 3142\(c\)](#).

Pursuant to the provisions of [18 U.S.C. § 3142\(g\)](#) a court, in assessing the risks noted in [18 U.S.C. § 3142\(b\)](#), shall consider the following: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence as to guilt; (3) the history and characteristics of the accused, including family ties, past history, financial resources and employment; and (4) the nature and seriousness of the danger to any person or the community that would be posed by a release.

During the course of a hearing conducted pursuant to [18 U.S.C. § 3142](#), the government typically retains the burden of persuading the court that “‘no condition or combination of conditions will reasonably assure’ the defendant’s presence at trial.” [United States v. Perez-Franco, 839 F.2d 867, 870 \(1st Cir. 1988\)](#) (quoting [United States v. Palmer-Contreras, 835 F.2d 15, 17-18 \(1st Cir. 1987\)](#)); [United States v. Patriarca, 948 F.2d 789, 793 \(1st Cir. 1991\)](#). For its part, the government is required to offer a preponderance of the evidence to prove risk of flight. See [Patriarca, 948 F.2d at 792-93](#). Facts necessary to find that no combination will reasonably assure the safety of any person and the community require satisfaction of the “clear and convincing” standard. [18 U.S.C. § 3142\(f\)\(2\)](#).

In the case at hand, the Indictment itself constitutes probable cause to believe that the offenses charged have been committed and that the defendant has committed them.

Here, I find that the government has met its burden with regard to danger to the community. Specifically, the defendant presents an unacceptable risk that he will commit alcohol-related crimes if he is released on bail without a condition that he participate in a resident treatment program.

I am satisfied from the representations and documents offered during the hearing that no condition or combination of conditions will reasonably assure the safety of the community.

Upon full consideration of the arguments offered by the government and defense, I am satisfied that the defendant poses danger to the community.

Accordingly, it is **ORDERED** that the defendant be detained pending trial.

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable

opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

Date: February 20, 2008

cc: Clyde Garrigan, AUSA
Bjorn Lange, Esq.
U.S. Marshal
U.S. Probation